

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noemi Martin	Team: Team # 5	CCRB Case #: 200904032	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/16/2009 6:30 PM	Location of Incident: In the vicinity of § 87(2)(b)	Precinct: 09	18 Mo. SOL 9/16/2010	EO SOL 9/16/2010	
Date/Time CV Reported Tue, 03/17/2009 2:03 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 03/17/2009 2:03 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM John Hall	13789	936725	NARCBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Hoiping Lee	02882	917860	NARCBMS

Officer(s)	Allegation	Investigator Recommendation
A.POM John Hall	Abuse: PO John Hall stopped § 87(2)(b)	§ 87(2)(b)
B.POM John Hall	Abuse: PO John Hall searched § 87(2)(b)	§ 87(2)(b)
C.POM John Hall	Abuse: PO John Hall refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On March 17, 2009, § 87(2)(b) filed this complaint with the CCRB via the phone (encl. 6A-6B).

On March 16, 2009, at approximately 6:30 p.m., § 87(2)(b) and two individuals known only as § 87(2)(b) and § 87(2)(b) were walking in the vicinity of § 87(2)(b) in Manhattan, when they were stopped by PO John Hall and Detective Hoiping Lee of Narcotics Borough of the Bronx. The following allegations resulted from the officers' actions:

- **Allegation A-Abuse of Authority:** PO John Hall stopped § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- **Allegation B-Abuse of Authority:** PO John Hall searched § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- **Allegation C-Abuse of Authority:** PO John Hall refused to provide his name and/or shield number to § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- § 87(4-b), § 87(2)(g)
§ 87(2)(b)
- § 87(2)(b)

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b) self-identified biracial male of white and black descent, is 5'9" tall, weighs 135 pounds, and has brown hair and brown eyes. § 87(2)(b)

CCRB Testimony

On March 20, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 7A-7E). On March 16, 2009, § 87(2)(b) was visiting his mother, § 87(2)(b) § 87(2)(b), a New York City Housing Authority building. § 87(2)(b) had been there for approximately 30 minutes, when his friends, § 87(2)(b) (last name unknown) and § 87(2)(b) (last name unknown) stopped by to pick him up. The group was there for approximately 7 minutes before they all left. As the walked out of the building, § 87(2)(b) noticed two plainclothes officers exit a blue unmarked van, which was parallel parked on the same side of the street. § 87(2)(b) knew that this was a police vehicle, because of previous police encounters. The group continued walking down the block, when the officers approached them. An officer, who § 87(2)(b) described as a white

male with reddish or blondish hair, asked if any of them lived in the building that they exited. This investigation identified this officer as PO John Hall. § 87(2)(b) replied no, but explained that his mother lived there. § 87(2)(b) further explained that his mother is ill and he went to check up on her, when his friends came to pick him up. PO Hall asked § 87(2)(b) what apartment did his mother live in and § 87(2)(b) said Apt. § 87(2)(b). § 87(2)(b) suggested he can call her to come to the window, but PO Hall said that wasn't necessary, because he was not looking into trespassing charges. § 87(2)(b) asked PO Hall what he was looking for, but PO Hall did not respond.

PO Hall then frisked § 87(2)(b)'s waistband. PO Hall asked § 87(2)(b) to open his jacket, and he complied. PO Hall also requested his identification and § 87(2)(b) provided it. § 87(2)(b) asked for PO Hall's identification, but he replied, "You don't gotta see my ID." § 87(2)(b) then asked what precinct he was from, but PO Hall said that he was "from no precinct." § 87(2)(b) then walked over to the van and wrote down license plate # § 87(2)(e), § 87(2)(b). The second officer, who § 87(2)(b) described as an Asian male, with dark hair, said that he had better quit while he was ahead. This investigation identified this officer as Detective Hoiping Lee. § 87(2)(b) did not know if Detective Lee ever interacted with § 87(2)(b) or § 87(2)(b) because he was focused on PO Hall. § 87(2)(b) was then released without being issued a summons or being arrested. The entire incident lasted approximately 10 minutes.

Attempts to Contact Civilians

§ 87(2)(b) alleged § 87(2)(b) and § 87(2)(b) were present for the incident. He did not have contact information for them, but agreed to provide them with the undersigned's contact information. However, neither individual contacted the CCRB and police documentation, such as the stop, question, and frisk report did not reveal any information for them.

NYPD Statements:

Subject Officer: PO JOHN HALL

- PO Hall, a § 87(2)(b)-old white male, is 5'10" tall, weighs 215 pounds, and has brown hair and blue eyes.
- On March 16, 2009, PO Hall worked from 12:33 p.m. to 12:00 a.m., on the narcotics field team, with Detective Hoiping Lee. He was dressed in plain clothes and assigned to an unmarked cargo van. PO Hall did not have any memo book entries related to the incident.

CCRB Testimony

On June 25, 2009, PO John Hall was interviewed at the CCRB (encl. 9A-9B). On March 16, 2009, at approximately 6:30 p.m., PO Hall and Detective Lee were conducting a buy and bust operation in the vicinity of Avenue C and Houston Street in lower Manhattan. PO Hall was assigned to the prisoner van and to also conduct observations of potential narcotics trafficking. While PO Hall and Detective Lee were inside the van, PO Hall saw a male, later identified as § 87(2)(b) and another individual loitering on the southeast corner of the intersection of § 87(2)(b) § 87(2)(b). The men appeared to be looking around, waiting for somebody. § 87(2)(b) was observed standing on the corner with another individual and kept looking up and down the avenue. The other individual was described as a male, but PO Hall did not remember his race or other characteristics. PO Hall also did not recall if the two males were interacting in any way other than standing next to each other. Because this is an area known for narcotics sales and the manner in which the two men were looking around, PO Hall suspicions were raised. Eventually, a third male approached them, at which point they proceeded eastbound on § 87(2)(b) § 87(2)(b) and went inside a building, located in the middle of the block on the south side. PO Hall did not see how the three men obtained entry into this building, but he was able to see the three men inside the lobby through the door because it had a glass window.

PO Hall was positioned across the street from the building and inside his van, but denied that his view was obstructed. PO Hall saw the men in the lobby for a short period of time before § 87(2)(b) disappeared from his line of sight. PO Hall was still able to see the other two men. After about 5 minutes, § 87(2)(b) reappeared. PO Hall saw § 87(2)(b) make contact and touch hands with the third male. PO Hall denied that the touch was a handshake or a high five, but could not describe what it was. PO Hall believed that § 87(2)(b) placed something in the male's hand, but he could not see a physical object. The second male stood off to the side. All three men then exited the building. PO Hall and Detective Lee exited the van and stopped the three men in front of the building. PO Hall was the first officer to make contact and spoke with § 87(2)(b). He did not recall asking anything other than where he lived. PO Hall did not recall § 87(2)(b) being uncooperative and denied that he spoke to the two other men. PO Hall also did not recall if the other two males said anything or if Detective Lee spoke to them. PO Hall did not remember if he asked for or received identification from § 87(2)(b). PO Hall admitted that he then frisked and searched § 87(2)(b) because he believed him to have engaged in a narcotics transaction. PO Hall searched § 87(2)(b)'s pockets, pants, and outer clothing. PO Hall did not find anything and did not know if the other two men were frisked or searched.

After § 87(2)(b) was searched, he asked PO Hall for his name and shield number. PO Hall verbally provided the information to him, but § 87(2)(b) said he did not believe him. PO Hall pointed to his shield, which was visible on his belt and said that he couldn't do any better than that. PO Hall then saw § 87(2)(b) look at the license plate of their van. PO Hall believed he prepared a Stop, Question and Frisk report and filed it at PSA 4.

Witness Officer: DETECTIVE HOIPING LEE

- *Detective Lee, a § 87(2)(b)-old Asian male, is 6' tall, weighs 230 pounds, and has black hair and brown eyes.*
- *On March 16, 2009, Detective Lee had the same assignment as PO Hall and was the operator of the vehicle. He had no memo book entries related to the incident.*

CCRB Testimony

On July 7, 2009, Detective Hoiping Lee was interviewed at the CCRB (encl. 11A-1B). § 87(2)(g) As Detective Lee was driving around the area, PO Hall informed him that he observed a drug transaction. Detective Lee stopped the vehicle, but did not see the alleged transaction. Detective Lee parked the car across from the building, where PO Hall observed one of the individuals, later identified as § 87(2)(b) exit. Detective Lee saw § 87(2)(b) exit the building with two other unidentified men. The other men were both Hispanic males, about 5'5" in height. He did not observe any verbal interaction or physical contact between the three men. At this point, PO Hall and Detective Lee exited the van and approached the group. PO Hall spoke to § 87(2)(b) and Detective Lee approached the two men. Detective Lee identified himself as a police officer and asked them what they were doing in the building. The men were compliant in answering his questions and replied that they did not live in the building. Detective Lee overheard § 87(2)(b) being verbally uncooperative with PO Hall and seemed agitated. § 87(2)(b) was irate and in elevated voice was saying things like, "Why am I being stopped? This is ridiculous; I just came out of my mother's house." PO Hall explained the reason for the stop and asked where § 87(2)(b) lived. § 87(2)(b) replied that he was homeless and visiting his mother.

Detective Lee believed that PO Hall frisked § 87(2)(b) and observed him search § 87(2)(b)'s pants pockets. Detective Lee frisked the two men to see if they had weapons. He patted them down their waist areas and no weapons were recovered. Detective Lee did not observe any bulges on the two men, but justified frisking them for safety purposes and because PO Hall observed a hand to hand transaction. Detective Lee did not ask the two men for their ID, because they did not have any weapons and he was satisfied with their answers. § 87(2)(b)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

Civilians CCRB History

- § 87(2)(b) has filed the following CCRB complaints:

- § 87(2)(b) [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Subject Officer(s) CCRB History

- PO John Hall has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl. 4).

Conclusion

Identification of Subject Officers

- PO Hall acknowledged that he interacted with § 87(2)(b) [REDACTED]

Investigative Findings and Recommendations

Allegation A-Abuse of Authority: PO John Hall stopped § 87(2)(b) [REDACTED]

Allegation B-Abuse of Authority: PO John Hall searched § 87(2)(b) [REDACTED]

It is undisputed that on March 16, 2009, at approximately 6:30 p.m., § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] exited § 87(2)(b) [REDACTED]' house, located at § 87(2)(b) [REDACTED], and were stopped by PO Hall and Detective Lee. PO Hall testified that he stopped § 87(2)(b) [REDACTED] after he allegedly touch hands with another male. PO Hall did not believe it was a greeting gesture, but could not describe the action. PO Hall suspected that § 87(2)(b) [REDACTED] placed something in the male's hand, but he could not see a physical object. The men then exited the building, when PO Hall decided to stop them. § 87(2)(b) [REDACTED] then alleged that PO Hall frisked his waistband and asked him to open his jacket. PO Hall admitted to searching § 87(2)(b) [REDACTED]'s pants pockets, because he believed he saw him engage in a narcotic transaction. Detective Lee did not observe the alleged drug transaction or any physical contact between the men, but testified that he witnessed PO Hall searched § 87(2)(b) [REDACTED].

§ 87(2)(g) [REDACTED]

PO Hall did not find any contraband on § 87(2)(b) [REDACTED] and he was then released without being issued a summons or being arrested.

An analysis of the New York State Criminal Procedure Law 140.50 (encl. 1), found that "officers may stop a person in a public place...when he reasonably suspects that such person is committing, or is about to commit a felony or misdemeanor defined in the penal law, and may demand of him his name, address and an explanation of his conduct." The law further states that upon the stop, "if the officer reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury..." § 87(2)(g) [REDACTED]

§ 87(2)(g)

shield number to § 87(2)(b)

[illegible]

Team: 5

Investigator: _____ Noemi Báez February 17, 2010
Signature Print Date

Supervisor: _____

Title/Signature Print Date

Reviewer: _____

Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date